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Letter dated 11 October 2007 from the Permanent Representative of Serbia to the United Nations addressed to the Secretary-General

I have the honour to forward herewith the comments of the Republic of Serbia (see annex) on the report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (S/2007/582) covering the period from 1 June to 31 August 2007.

I should be grateful if you would have the letter and the enclosed document circulated as a document of the Security Council.

(*Signed*) Pavle **Jevremovic**
Permanent Representative

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Annex to the letter dated 11 October 2007 from the Permanent Representative of Serbia to the United Nations addressed to the Secretary-General

Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (S/2007/582): comments of the Republic of Serbia

The report of the Secretary-General of the United Nations on the United Nations Interim Administration Mission in Kosovo (UNMIK) (S/2007/582) covering UNMIK activities and developments in the Serbian Province of Kosovo and Metohija from 1 June to 31 August 2007 is one in a series which, like many of its predecessors, fails to fully reflect the situation in this Province. The far from impartial assessments of the United Nations Special Representative for Kosovo of the satisfactory level of the implementation of the standards and the alleged capacity of the Province and the Provisional Institutions of Self-Government (PISG) for statehood have an added political weight at the time of the ongoing negotiations on the future status of Kosovo and Metohija. The special responsibility in this regard rests with the Secretary-General of the United Nations and his Special Representative.

Particularly inappropriate in the context of the ongoing negotiating process is the emphasis in the report (paragraph 3) on the "disappointment" of the Kosovo Albanians with the prolongation of the process and the failure of the Security Council to adopt a new resolution that would bring about independence to Kosovo and Metohija that their leaders had promised.

The assertion in the report (paragraphs 14 and 24) to the effect that steady progress has been made by PISG in the implementation of standards, "moving Kosovo along the path towards" European integration is unwarranted and could hardly be accepted as reflecting the situation on the ground, all the more so as it is in contradiction with subsequent assessments that much remains to be done to create conditions that would guarantee general security, encourage IDP returns and help rebuild houses and places of worship. In practical terms, this means that, even 8 years after the establishment of UNMIK, no results have been achieved in the critical issue of the stabilization of the situation in Kosovo and Metohija as mandated by Security Council resolution 1244 (1999) and the standards set up subsequently by the international community.

The less than objective picture of the situation and developments in Kosovo and Metohija presented in the report leads the reader to believe that it is only independence that is missing for the Province to join the company of the democratic societies of Europe. In that context, the suggestion that it is necessary to accelerate the process of transition of responsibilities to PISG even though the situation on the ground gives every indication that it would be too soon is well outside the mandate of the Special Representative of the Secretary-General. The undue emphasis on the importance of the forthcoming elections in Kosovo and Metohija in the report is also designed to embellish the picture of Kosovo and Metohija as an emerging democratic society and to confer legitimacy, by bringing pressure to bear primarily on the Serbs in the Province, on the policy of Kosovo Albanians for whom the

independence of Kosovo and Metohija is the only acceptable outcome of the negotiations.

Political situation

It is said in paragraph 4 of the report that "[t]he current mandates of the Assembly of Kosovo and the municipal assemblies expire in November and December respectively, which requires that elections be held" on 17 November 2007. Considering that the leading Kosovo Albanian politicians and political parties continue to maintain that independence is the only solution for the status of the Province, it is evident that an atmosphere that would have a negative effect on the Troika-led negotiations will be created in the election campaign. Although it is said that the date of the elections could be postponed should they delay the status determination process, it is clear that the Albanian negotiating team is provided an opportunity to be less than fully engaged in the negotiations to find a compromise solution, which creates an objective impediment and makes no contribution to the constructive atmosphere prevalent at the current stage of negotiations.

In paragraphs 6 and 7 of the report, the Rapporteur says that "[t]he participation of Kosovo Serbs [...] in the Provisional Institutions [...] remains minimal" and that most of them have decided to boycott the elections. The Rapporteur goes on to speculate about the differences among the Kosovo Serbs with respect to their participation in the elections. The fact is that the leading political parties that appeal to the greatest number of Serbs and have the greatest influence in the Serbian population in Kosovo and Metohija have decided not to take part in the elections in the light of announcements being made by the Albanian politicians that they will declare the independence of the Province after 10 December. They persist in their intention even though neither the Contact Group Troika nor the Contact Group itself has said that the process will end on that date. Unfortunately, the Kosovo Albanian leaders are supported in their position by some influential international actors.

Following the elections in 2001 and 2004 when an active participation of the Serbs in the Kosovo Assembly has been devoid of any political meaning and rendered ineffective by continuous majoritarianism of the Albanian side and the lack of IDP returns, there exist no political and security preconditions for their participation in the elections this time round. Furthermore, the atmosphere in which the elections are held is fraught with threats of armed Albanian groups and compounded by the fact that Ramush Haradinaj, indicted by the Hague Tribunal for war crimes, is on an election list. These are the facts that guided the Government of Serbia in recommending the Serbs in Kosovo and Metohija not to take part in the elections in the present conditions, convinced that no one has a moral or any other right to call on them otherwise.

Security

It is stated in paragraph 8 of the report that "[t]he overall security situation [...] remained calm on the surface" notwithstanding an "underlying volatility". There remains, however, a lingering doubt as to the real causes of the situation: rather than the prolongation of the Kosovo future-status process, as alleged in the report tendentiously, the gravity of the situation is rooted in very bad overall social, political and economic conditions in Kosovo and Metohija. Even the eight years of

the engagement of UNMIK and KFOR have created no preconditions for normal and secure life and work and the freedom of movement of the Serbian and other non-Albanian communities. The report speaks of minor incidents of violence, vandalism against cultural and religious sites and hidden arms caches, all of which have allegedly been taken in previous KFOR actions, but, as on many occasions in the past, the Rapporteur is silent about the detection and arrest of the perpetrators. UNMIK has leant over backwards to disprove the reports on the existence of armed terrorist formations; a footage on them, though, has been broadcast on Kosovo public television recently. This explains the extent to which UNMIK has gone to conceal the real situation in Kosovo and Metohija, which is true of this report as well.

Returns

The low number of members of minority groups returning voluntarily to Kosovo and Metohija, about 400 Serbs and 300 Roma as at the end of July 2007, is noted in the report; however, no credible explanation for the disappointing figure is provided. Surely, the economic situation and insufficient funds do have a part to play, but the main impediments to the return of Serbs are the lack of readiness of the Albanian institutions, threatening security situation and an inadequate commitment of UNMIK. What is involved here are not the "perceptions of insecurity" of the Serbs; it is the hard facts of everyday life that impede IDP returns and undermine another, imposed, "perception", the one of multi-ethnic Kosovo. The Serbian IDP returns are among the principal standards for determining UNMIK effectiveness and PISG capability to govern, now and in the future, "democratic and multi-ethnic Kosovo", which is the main objective of the international community. With results as meagre as these, it is an illusion to expect that Serbs will participate in Kosovo institutions in greater numbers.

Observations

Paragraphs 25 to 30 of the report deal with the current negotiating process for the determination of the future status of Kosovo and Metohija, carried out with the mediation of the Contact Group Troika. However, every effort is made not to mention Serbia as if Kosovo and Metohija existed somewhere outside the State territory of Serbia. This is contrary to Security Council resolution 1244 (1999), bears no evidence of who the negotiators are and makes no reference to the negotiating platforms of the Serbian and Albanian delegations.

The Rapporteur rightly warns of the situation that might arise in the absence of an agreement, but continues to espouse the Ahtisaari Proposal even though no position has been taken on it in the Security Council. No mention is made in this way of the fact that Serbia, one of the parties in the negotiations, has rejected the Proposal since it violates the basic principles of the Charter of the United Nations and resolution 1244 (1999), specifically the inviolability of the territorial integrity and sovereignty of Serbia, a United Nations Member State.

The assertion that "UNMIK has largely achieved what is achievable under resolution 1244 (1999), made in paragraph 28 of the report, is not acceptable. The failure to achieve results in the field, e.g. to provide security, create conditions for IDP returns, ensure normal conditions for life and work of non-Albanian communities, protect the personal property of Serbs and the State property of Serbia

etc., is no cause for satisfaction. Also, the attitude of UNMIK towards the privatization of the social and State property in Kosovo and Metohija is unacceptable for Serbia.

A concluding observation that "[a] further prolongation of the future-status process puts at risk the achievements of the United Nations in Kosovo since June of 1999" is unacceptable and harmful to the process itself. Serbia has embarked upon the negotiating process in good faith and the belief that direct negotiations with the mediation of the Contact Group Troika should be given a real chance and that no artificial deadlines should be imposed. Political readiness of both sides is necessary to achieve a compromise, mutually acceptable solution. And in order to be conferred international legitimacy, such a solution must be confirmed by the Security Council. This approach should be encouraged by the United Nations and all other international actors.